No. 71-908

In the Supreme Court of the United States

OCTOBER TERM, 1971

ROBERT S. STRAUSS, PETITIONER

v.

UNITED STATES OF AMERICA

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SEVENTH CIRCUIT.

MEMORANDUM FOR THE UNITED STATES IN OPPOSITION

ERWIN N. GRISWOLD,
Solicitor General,
Department of Justice,
Washington, D. C. 20530.

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After a jury trial in the United States District Court for the Southern District of Illinois, petitioner was convicted of five counts of mail fraud in connection with a check-kiting scheme, in violation of 18 U.S.C. 1341, 1342. He was sentenced to a total of eight years' imprisonment. The court of appeals affirmed (Pet. App. A) and denied a petition for rehearing on October 14, 1971. The petition for a writ of certiorari was not filed until January 12, 1972, and

is substantially out of time under Rule 22(2) of the Rules of this Court. There is, in any event, no reason to grant the writ. Petitioner contends that he was denied the right to a speedy trial both in terms of pre-indictment post-arrest delay and post-indictment delay; he also contends that the evidence did not establish that the use of the mails was in furtherance of the scheme to defraud. These contentions are, on the facts here, without substance and are fully answered in the opinion below on which we rely.

It is therefore respectfully submitted that the petition for a writ of certiorari be denied.

ERWIN N. GRISWOLD,
Solicitor General.

FEBRUARY 1972

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